

DATE

Mr. Robert J. Klein
10659 Sugarpine Drive
Greenwell Springs, LA 70739

**Re: Louisiana Board of Ethics Docket No. 2021-1000
Advisory Opinion**

Dear Mr. Klein:

The Louisiana Board of Ethics, at its January 7, 2022 meeting, considered your request for an advisory opinion as to any post-termination prohibitions in the Code of Governmental Ethics following your retirement from the Office of Technology Services (“OTS”) within the Division of Administration.

FACTS PROVIDED

You stated that you currently serve as an Information Technology Deputy Director in the Agency Relationship Management (“ARM”) Section of OTS. You stated that you are not considered a department head as you report to the ARM Director, and no one reports to you. You stated that OTS was established in 2014, whereby all information technology functions and responsibilities were removed from the individual agencies in the executive branch and transferred to OTS. You stated that the procurement of IT goods, services, and all IT functions are now the responsibility of OTS. You stated since 2019 you have acted as OTS Agency Relationship Manager for four Louisiana agencies: Department of Public Safety (“DPS”), Governor’s Office of Homeland Security (“GOHSEP”), Louisiana Alcohol and Tobacco Control (“ATC”), and Office of the Inspector General (“OIG”). You stated that you assist these agencies by: (1) apprising OTS and a state agency of ongoing projects and initiatives, generating business status reports, and generating dashboards for executive staff meetings; (2) liaising with OTS and the state agencies by using business relationship management concepts and strategies; (3) negotiating new and renewal contracts with multiple vendors; (4) advising state agencies on computer lease agreements; (5) developing emergency response processes for state agencies during critical emergency standups; and, (6) assisting in resolving critical IT applications, networking, and data center issues. You stated that you intend to retire in January or February 2022, with the potential to become an employee of a state contractor. You seek guidance on whether and under what circumstances this would be permissible.

LAW

La. R.S. 42:1121B(1) prohibits a former public employee, for a period of two years following the termination of his public employment, from assisting another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such former public employee participated at any time during his public employment and involving the governmental entity by which he was formerly employed, or for a period of two years following termination of his public employment, render, any service which such former public employee had rendered to the agency during the term of his public employment on a contractual basis, regardless of the parties to the contract, to, for, or on behalf of the agency with which he was formerly employed.

La. R.S. 42:1121C prohibits a legal entity in which a former public servant is an officer, director, trustee, partner, or employee, for a period of two years following the termination of his public service, from assisting another person, for compensation, in a transaction or in an appearance in connection with a transaction in which such public servant at any time participated during his public service and involving the agency by which he was formerly employed or in which he formerly held office.

ANALYSIS

Based on the information provided, you have assisted DPS, GOHSEP, OIG and ATC with business relationship management. The general rule prohibits you, as a former OTS employee, from assisting another person for compensation in connection with a transaction or business relationship management service in which you participated while employed by OTS. Further, you would be prohibited from rendering the same IT business relationship management services through a contract, directly or indirectly, to, for, or on behalf of OTS, including business relationship management services to agencies with which you did not provide assistance while employed by OTS. The Code of Governmental Ethics does not prohibit you from contracting with OTS or other state agencies to render services other than those you rendered while employed by OTS. Finally, the Code of Governmental Ethics does not prohibit you, individually or as an employee of a third-party contractor, from contracting directly with state agencies other than OTS, DPS, GOHSEP, OIG, and ATC to provide business relationship management services.

CONCLUSION

The Board concluded, and instructed me to inform you, that La. R.S. 42:1121B(1) of the Code of Governmental Ethics would prohibit you from assisting another person or third-party contractor to OTS, for a period of two years from your retirement, relative to business relationship management services; however, as an employee of a third-party contractor to a governmental entity or agency other than OTS, DPS, GOHSEP, OIG, or ATC, you would not be prohibited from providing business relationship management services.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. Please note that the Board issues no opinion as to past conduct and that the Board's

expressed opinion is limited to an examination of the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions in the gaming laws.

Sincerely,

LOUISIANA BOARD OF ETHICS

Gregory L. Thibodeaux
For the Board

DISCLAIMER
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.